



COUNTY BOARD OF ADJUSTMENT
YELLOWSTONE COUNTY, MONTANA
Thursday, April 12, 2012

SUBJECT: Variance #263 – To Use Land Contrary to Zoning – 1118 Firth Street
THROUGH: Candi Beaudry, AICP, Planning Director
FROM: Nicole Cromwell, AICP, Zoning Coordinator, Planner II

REQUEST

This item is being brought to the Board of Adjustment for a Public Hearing to allow the Lockwood Water and Sewer District, a public agency, to construct a sanitary sewer lift station in an Entryway General Commercial (EGC) zone on a 5,400 square foot portion of the East ½ of Lot 6, Borgan Subdivision an 18,900 square foot parcel of land. The Lockwood Water and Sewer District is proposing to purchase the 5,400 square foot parcel (the north 40 feet of the existing parcel) from Gerald and Lucille Hill, the current owners of the parcel. The proposed project is contrary to the zoning district regulations. Public utility installations are not an allowed use within the EGC zone. All of the existing structures on the lot will be removed by Lockwood Water and Sewer as part of the land purchase. The authority to use public land by a public agency contrary to local zoning is shown on the attached copy of MCA 76-2-402 (page 2).

State statute allows public agencies to use land contrary to zoning after a Public Hearing is held by the local Board of Adjustment. As illustrated in MCA 76-2-402(2), the Board shall have no power to deny the proposed use but shall act only to allow a public hearing for comment on the proposed use.

APPLICATION DATA

OWNER: Gerald and Lucille Hill
AGENT: Woody Woods, Lockwood Water and Sewer District
PURPOSE: To allow the construction of a sanitary sewer lift station on a 5,400 square foot portion of the E ½ of Lot 6 Borgan Subdivision
LEGAL DESCRIPTION: East ½ Lot 6, Borgan Subdivision
ADDRESS: 1118 Firth Street
SIZE OF PARCEL: 18,900 square feet (total) 5,400 square feet portion for Lockwood Water and Sewer Lift Station
EXISTING LAND USE: Single family residence and garage
PROPOSED LAND USE: Sanitary sewer lift station
EXISTING ZONING: EGC

CONCURRENT APPLICATIONS

None

SURROUNDING ZONING & LAND USE

NORTH: Zoning: EGC

	Land Use:	Vacant land
SOUTH:	Zoning:	EGC
	Land Use:	Single family dwelling
EAST:	Zoning:	EGC
	Land Use:	Single family dwelling
WEST:	Zoning:	EGC
	Land Use:	Vacant land

REASONS

This is a request from Lockwood Water and Sewer District to construct a new sanitary sewer lift station with an enclosure for the next phase of the Lockwood Sewer project. Lockwood Water and Sewer will be purchasing a 5,400 square foot portion of the existing lot from the current owners, Gerald and Lucille Hill. This is a land use contrary to zoning and is allowed by state statute MCA 76-2-402 after a Public Hearing is held before the local Board of Adjustment. State law does not give the authority to the Board of Adjustment to approve or deny the request but does allow the Board to receive public comment on the use.

State Statute

76-2-401. Definitions. As used in [76-2-402](#), the following definitions apply:

- (1) "Agency" means a board, bureau, commission, department, an authority, or other entity of state or local government.
- (2) "Local zoning regulations" means zoning regulations adopted pursuant to Title 76, chapter 2.

History: En. Sec. 1, Ch. 397, L. 1981.

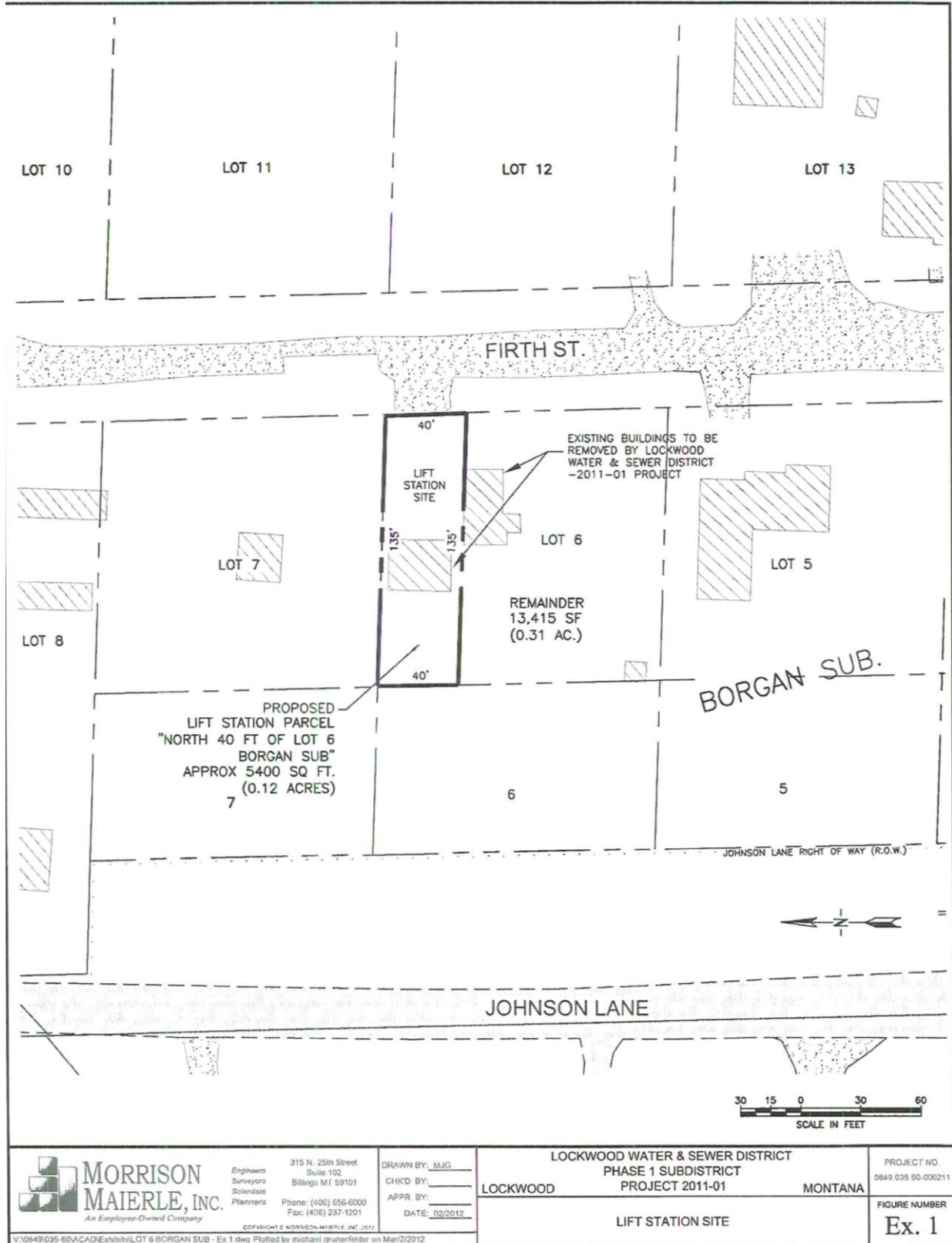
76-2-402. Local zoning regulations – application to agencies. Whenever an agency proposes to use public land contrary to local zoning regulations, a public hearing, as defined below, shall be held.

(1) The local board of adjustments, as provided in this chapter, shall hold a hearing within 30 days of the date the agency gives notice to the board of its intent to develop land contrary to local zoning regulations.

(2) The board shall have no power to deny the proposed use but shall act only to allow a public forum for comment on the proposed use.

History: En. Sec. 2, Ch. 397, L. 1981.

Site Plan – Proposed Sanitary Sewer Lift Station

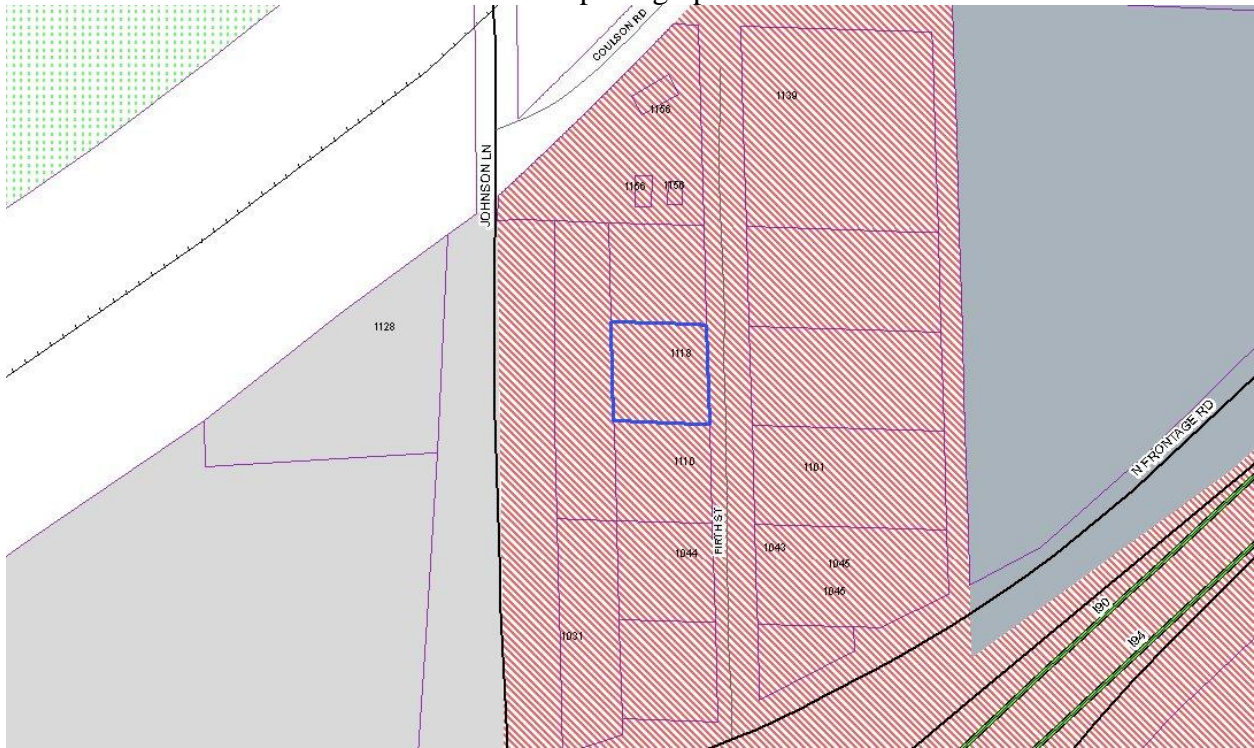




Zoning Map

Subject Property

Site photographs



Subject property



Subject property



View west from Firth Street



View north along Firth Street



View south and west along Firth Street



View south and east across Firth Street

Applicant's Letter



1644 Old Hardin Road

Billings, Montana 59101

www.lockwoodwater.com

(406) 259-4120

Fax (406) 259-1113

March 5, 2012

Carlotta Hecker, Chairperson
Yellowstone County Board of Adjustments
Yellowstone County
217 N. 27th Street
Billings, Montana
59107-5024

RE: Gerald & Lucille Hill Zoning Variance
Tax Code C04253 - E2 Lot 6, Borgan Subdivision

Dear Mrs. Hecker,

This Variance Application is for Land Use Contrary to Zoning in order to build a Public Sanitary Lift Station for the Community of Lockwood.

The Lift Station will be sited on a 5,400 S.F. lot which will be separated out by a Certificate of Survey or Amended Plat. A new Lift Station will be constructed on the site and will be enclosed by a wall structure (shown on attached Exhibit 2) which will not negatively impact the surrounding properties. All existing buildings on E2 Lot 6, Borgan Subdivision will be removed by Lockwood Water & Sewer District's sewer Project 2011-01.

The variance is being sought in order to bring sanitary sewer service to the remaining properties in the Phase I Sewer Subdistrict. This is the third site location looked at by LWSD. The other sites were unavailable. The Hills are willing to work with LWSD to bring sanitary sewer service to their neighborhood. The Hills as well as other property owners have been paying annual assessments for the ongoing sewer construction without the benefit of sewer service.

Sincerely,

A handwritten signature in blue ink that reads "Woody Woods".

Woody Woods, District Manager
Lockwood Water & Sewer District

Cc: file